IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 838 OF 2005

Pandharinath Vithoba Sanas & anr. ... Appellants

V/s

Bandu Vithoba Sanas & ors. ... Respondents

Mr. S.V. Sadavarte for the appellants.

Mr. Jaydeep S. Deo for the Respondent No.1.

CORAM: P.V. KAKADE, J.

DATED: 29TH AUGUST, 2005

P.C.:

1. The appellants have preferred this appeal against the judgment and order passed by the District Judge, Pune, dated 29.10.2004 dismissing the appeal and confirming the judgment and order passed by the Civil Judge, J.D., Pune, dated 29.4.1998, dismissing the plaintiffs' suit for declaration and perpetual injunction against the defendants.

2. The plaintiffs came with the case that the suit properties were joint family properties as they were purchased from joint family funds in the name of

plaintiffs and defendants and, therefore, the plaintiffs had undivided share therein and hence declaration to that effect was sought and perpetual injunction was asked for alongwith the consequential reliefs.

Defendants contested the suit inter-alia submitting that the allegations were false and the properties were not from the joint family funds and, therefore, plaintiffs had no right, title and interest in the said property.

3. The learned Trial Judge adjudicated the dispute on merits and came to the conclusion that the plaintiffs had failed to show that the properties were purchased from joint family funds and, therefore, he had un-divided share therein and dismissed the suit.

The appeal was carried to the District Court. The learned lower appellate Court, after hearing both parties, concurred with the findings recorded by the Trial Court and dismissed the appeal. Hence the present appeal.

4. At the outset, it may be noted that there is absolutely no substantial question of law involved in this appeal. On perusal of the judgment of both the

Courts below, it is seen that both the Courts have appreciated the factual aspects of the evidence in proper perspective and concluded that plaintiffs had failed to prove that the suit properties were purchased from the joint family funds and, therefore, he had right, title or interest therein. There is absolutely no evidence in support of the contentions of the appellants and, as such, the appeal has no merit and deserves to be dismissed.

In the result, the appeal stands dismissed with no order as to costs. Consequently, Civil Application No. 1377 of 2005 also stands dismissed with no order as to costs.

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